IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.6600 of 2003

Date of Decision: 4.12.2006

HC Jasbir Singh and others .....Petitioners

Versus

State of Punjab etc. .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.DS Patwalia, Advocate
for the petitioners.

Mr.BS Chahal, AAG Punjab.

***

S. D. ANAND, J.

1. Facts in the first instance. In the year 1989, the Punjab Government decided to raise Commando Battalions in the State of Punjab. In order to effectuate the decision aforesaid, it was decided to raise the manpower by transferring people from the Punjab Armed Police. Officials at various hierarchical levels, for manning those battalions, were identified. The first Battalion was raised in the year 1989; while 2nd and 3rd Battalions were raised in the year 1992. The participants (at the meeting where the decision to raise the Battalions was taken) were told that Constables and Head Constables who were being transferred to Commando Battalions, will eventually be merged into District Police after they had performed duty of Commandos for 2/3 years. Thereafter, some of the personnel who were

functioning in the Commando Battalions were indeed transferred to different police ranges. Their place was taken by few others obtained from PAP. The vacancies caused thereby in the PAP were filled up by fresh recruitment and promotion. In the case of the petitioners (and some non-petitioners) also, the orders for their transfer to the District Police were passed which were not implemented in toto. A pick and choose policy was adopted in the implementation thereof. Certain persons other than the petitioners but similarly circumstanced otherwise, filed CWP 13081 of 1997, titled **HC Rajinder Kumar and others Versus State of Punjab.** That writ plea was allowed by a Single Bench of this Court on 27.4.2001 (Annexure P4). In compliance with that order, the petitioners to that writ petition were transferred to the District Police. Thus, the relief in terms of order dated 27.4.2001 was confined to the petitioners in that writ plea and it was not extended to the present petitioners, though their names did appear in the common transfer list. Even the service of a legal notice dated 23.8.2002 (Annexure P6) did not invite any response from the official respondents. Emboldened by the view taken by the Single Bench of this Court in **HC Rajinder Kumar's case(supra)**, the present petitioners also filed a writ plea (Civil Writ Petition No.18840 of 2002), which was disposed of by a Division Bench of this Court on 26.11.2002. The order required disposal of the legal notice dated 23.8.2002 by the respondents within a period of four months from the date a certified copy of the order was brought to their notice. In implementation thereof, the respondents passed order dated 2.4.2003 (Annexure P8), thereby rejecting the plea of the petitioners for transfer to the District Police. It is this order which is impugned by the petitioners in the present case.

2. The petitioners' plea rests upon the order dated 27.4.2001 in Civil Writ Petition No. 13081 of 1997. Sustenance for the advocated plea is also sought from a policy decision taken by the Government to the effect that those inducted into the Commando Battalions would be transferred to the District Police on completion of an indicated period.

3. The respondents have raised the plea that there is no policy decision requiring compulsive transfer of the inducted personnel to the District Police. The plea, on the other hand, is that a conscious decision had been taken by the Government subsequently that the orders of transfer qua the petitioners and the like would not be implemented on account of the difficulty experienced in the implementation thereof. The reliance placed by the petitioners upon the Single Bench judgment in Civil Writ Petition No. 13081 of 1997 was averred to be mis-conceived by inviting the attention of this Court to order dated 8.9.2005 vide which, while disposing of an LPA against order dated 27.4.2001, a Division Bench of this Court did not agree with the learned Single Bench and proceeded to re-iterate that the posting of an Officer is the prerogative of the Government. Further consequential order was, however, not insisted upon by the Division Bench by observing that "as action pursuant to the judgment of the learned Single Judge would have been completed by now, we refrain from taking the clock backwards".

4. It may be noticed, at the very outset, that our attention could not be invited to any documentation indicating any policy decision at the Governmental level ordaining the compulsive transfer of the Commando Battalion Personnel to the District Police after they had been in the former Organisation for a certain period. The cue to the problem can be had from

Annexure P1. It purports to be the "minutes of the meeting held in the office of DIG/Admn, PAP Jalandhar Cantt. on 4.6.1992 aforesaid." The first page itself of this document indicates the names and particulars of police officials who attended it. The document further proceeds to indicate the decisions which were taken at the meeting. Item No.4 of the decision taken is extracted hereunder for facility of reference:

> "The participants were told that constables and head constables who were being transferred to commando Btns. will eventually be merged into Distt. Police after performing duties as commandos for two/three years."

5. As would be evident from a perusal of Annexure P1 (particularly the extracted portion thereof), it was only a decision taken by Senior Officers of the Police Organisation. There is no reference in Annexure P1 to the effect that the decision aforesaid had been taken in pursuance of any policy decision taken at the Government level. Assuming for the sake of arguments, though not conceding, that the policy decision had indeed been taken by the Government to transfer the Personnel inducted into the Commando Battalions to the District Police, even then, no benefit thereof would, per se, accrue to the petitioners. Except when a policy decision may involve promissory estoppel, it (policy decision) cannot be said to be irrevocable, particularly when the subsequent decisions, even if those being in total or partial derogation of previous instrument, are based upon express reasoning which is in accord with the exigencies of service. To be correct on facts, it may be re-iterated here that there is nothing at all on the file to indicate that the Government had taken or announced a policy decision about the transfer of those inducted into the Commando Battalions

to the District Police after a certain period.

6. The reliance placed on behalf of the petitioners upon the Single Bench judgment dated 27.4.2001 in Civil Writ Petition No. 13081 of 1997 is, obviously, mis-conceived in view of the fact that line of reasoning adopted therein was dis-approved by the Division Bench while disposing of the LPA against that judgment. The fact that the Division Bench did not insist upon further consequential orders, pursuant to the dis-approval of the view taken by the Single Bench, does not at all enable the petitioners to advocate a plea of their being entitled to any relief on the bogey of being similarly circumstanced.

7. The writ petition merits dismissal and it is so ordered accordingly.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

December 4 , 2006
SRM